IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 41122 of 2003(U)

PETITIONER:

B.VIJAYAMMA,
VIJAYA NIVAS, MAPPILASSERY ROAD,
P.O.VYTTILA, KOCHHI-19
RTD. AS JUNIOR PUBLIC HEALTH NURSE IN
KOCHI CORPORATION.

BY ADV. SRI.P.K.IBRAHIM
SRI.B.K.PURUSHOTHAMAN
SMT.ASHIRA MOHAMED ASHROF

RESPONDENTS:
----

1. **THE SECRETARY,**
   CORPORATION OF KOCHI,
   KOCHI-11.

2. **THE DIRECTOR OF URBAN AFFAIRS,**
   THIRUVANANTHAPURAM.

3. **THE EXAMINER OF LOCAL FUND ACCOUNTS,**
   THIRUVANANTHAPURAM.

4. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVT.,
   LOCAL SELF GOVERNMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV.SRI. N.N.SUGUNAPALAN, SC
SRI.K.R.SUNIL
BY SR.GOVERNMENT PLEADER SRI. SURARSHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

==========

W.P.(C).No.41122 of 2003

==========

Dated this the 19th day of January, 2007

J U D G M E N T

The petitioner retired from the service of the Kochi corporation on 31.5.2003 as Senior Grade Junior Public Health Nurse. She approached this court seeking the following reliefs:

> "(i) to issue a writ of certiorari or other appropriate writ, order or direction quashing Exhibit P4 order;
>
> (ii) to issue a writ of mandamus or other appropriate writ, order or direction directing the respondents to sanction retirement benefits to the petitioner including Pension, Commuted value of pension and Death-cum-Retirement Gratuity ignoring Ext.P4 with interest at 18% per annum for all such amounts with effect from 1.8.2003 till the date of actual payment;
>
> (iii) to issue a writ of mandamus or other appropriate writ, order or direction to release forthwith the Provident Fund amount at credit of the petitioner in her Provident Fund Account with admissible interest till date of payment;"

2. Regarding Ext.P4 it is seen that the fixation of pay of the petitioner made from 1.7.1988 is set aside in 2003 after 15 years.

Although the third respondent has filed a counter affidavit nothing is mentioned about the challenge against Ext.P4. In any event, I do not think that whatever be the reason a fixation made 15 years ago can be changed at this point of time and there would be no justice in countenancing the same. Further, there is nothing on record to show that an opportunity has been given to the petitioner to show cause against such refixation. Since more than 3 years have now expired since the petitioner's retirement no liability can now be fixed as per Note 3 of Rule 3 of Part III of the Kerala Service Rules. Therefore, no useful purpose would be served in allowing the respondents to pass fresh orders after hearing the petitioner. In the above circumstances, I am satisfied that Ext.P4 is liable to be quashed and I do so. In the counter affidavits filed by respondents 2 and 3, they blame the 1st respondent for not forwarding the pension papers of the petitioner before the third respondent. It is also stated that the petitioner

has been paid minimum pension of Rs.1275/- as also provident fund amount of Rs.1,48,137/- on 12.2.2004.

3. In the above circumstances, I dispose of the writ petition with the following directions:

The 1st respondent shall do whatever is necessary for sanctioning the petitioner's pension including forwarding of pension papers, within one month from the date of receipt of the copy of this judgment. The third respondent shall, within two weeks from the date receipt of the same, process the pension papers and pass appropriate orders regarding recommendation of pension and forward it to the appropriate authority for sanctioning pension. In any event, the respondents should see that the petitioner gets all her balance retirement benefits within three months from the date of receipt of a copy of this judgment.

sdk+ S.SIRI JAGAN, JUDGE

S.SIRI JAGAN, J.

==========

W.P.(C).No.41122 of 2003

==========

Dated this the 19th day of January, 2007

J U D G M E N T